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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,077	05/19/2004	Adrian M. Romanyszyn	L-0171.02	5649

7590 12/15/2005

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EXAMINER

HANAN, DEVIN J

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/849,077

Applicant(s)

ROMANYSZYN, ADRIAN M.

Examiner

Devin Hanan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-14 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 7 and 15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 11 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "paddlewheel" in line 1. There is insufficient antecedent basis for this limitation in the claim. Paddlewheel tangs were introduced, but no mention was made of the paddlewheel.

Claim 11 recites the limitation "symmetrical in the radial direction" in line 2. It is unclear if the tangs are claimed to be symmetric about a line in the radial direction or symmetric in some other manner.

Claim 19 recites the limitation "the primary face is symmetrical to the secondary face along the outer periphery" in line 1-2. It is unclear as to what line the two faces are symmetric with respect to.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 8, 9, 12-14 and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Utter (U.S. Patent 5,104,077).

Utter discloses a paddlewheel with a primary face and a secondary face attached at one end that is capable of moving a product in a first direction and a second direction (tangs 116 have two sides, each capable of moving ice in a different direction).

Regarding claim 8, Utter discloses the tangs can move ice (col. 1 lines 6-16).

Regarding claim 9, Utter discloses the tangs can move ice cubes (col. 1 lines 6-16).

Regarding claim 12, Utter discloses a paddlewheel with a truncated conical body (central hub 112 has a truncated conical shape that, see the element to the right of element 134 in figure 3, the truncated conical shape also has depressions that can be seen in figure 5) having an outer periphery with tangs (116), the tangs having a primary face and a secondary face each of which can move a product in either direction (tangs 116 have two sides, each capable of moving ice in a different direction).

Regarding claim 13, Utter discloses a paddlewheel with a primary face of a tang that pushes the product in a first direction (one face moves product when rotated in a clockwise direction).

Regarding claim 14, Utter discloses a paddlewheel with a secondary face of a tang that pushes the product in a second direction (one face moves product when rotated in a counterclockwise direction).

Regarding claim 17, Utter discloses a paddlewheel that moves ice (col. 1 lines 6-116).

Regarding claim 18, Utter discloses a paddlewheel that rotates about a central aperture in the truncated conical body (aperture in element 112 in figure 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2-6, 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Utter.

Utter discloses all the claimed limitations in claim 1 above, but does not disclose a fifty degree angle between the primary face and the secondary face.

Since the applicant has not disclosed that having a fifty degree angle between the faces solves any stated problem or is for any particular purpose above the fact that it is a design choice and it appears that the angle between faces of Utter would perform equally well with moving a product as claimed by applicant, it would have been an obvious matter of design choice to further modify the angle between faces of Utter by

using the angle between faces as claimed for the purposes of a changing the orientation of the faces to suit different products.

Regarding claim 3, the modified apparatus of Utter as discussed in claim 2 above discloses all of the claimed limitations and the truncated body as discussed in the rejection of claim 12 above.

Regarding claim 4, the modified apparatus of Utter as discussed in claim 3 above discloses all of the claimed limitations and a central aperture as discussed in the rejection of claim 18 above.

Regarding claim 5, the modified apparatus of Utter as discussed in claim 4 above discloses all of the claimed limitations and a primary face pushing a product in one direction (one face moves the product when rotated in a clockwise direction).

Regarding claim 6, the modified apparatus of Utter as discussed in claim 5 above discloses all of the claimed limitations and a secondary face pushing a product in another direction (one face moves the product when rotated in a counterclockwise direction).

Regarding claims 10 and 16, the applicant has not disclosed that having a rounded crest of the tangs solves any stated problem or is for any particular purpose above the fact that it is a design choice and it appears that the crest shape of Utter would perform equally well with moving a product as claimed by applicant, it would have been an obvious matter of design choice to further modify crest shape of Utter by using the rounded crest shape as claimed for the purposes of a moving rather large products

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that don't need a sharp edge to seal off the gap between the tangs and the surface which the ice rests against during rotation upwards.

Allowable Subject Matter

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim, any intervening claims and overcoming the 35 USC 112 rejection of claim 4.

Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

The patent to Jonn (U.S. Patent 2,083,996) was cited for its teaching of a paddlewheel with similar structure having two faces that could possibly move a product in two directions, but moving the fan in two directions would destroy the reference.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devin Hanan whose telephone number is 571-272-6089. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on 571-272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Devin Hanan
Patent Examiner
Art Unit 3745



EDWARD K. LOOK
SUPERVISORY PATENT EXAMINER
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12/12/05